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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,849	02/26/2004	Jerc F. Irwin	IR3-051	6855
21567	7590	01/05/2007	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			CHOI, STEPHEN	
			ART UNIT	PAPER NUMBER
			3724	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/788,849	IRWIN, JERE F.	
	Examiner	Art Unit	
	Stephen Choi	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 10-26 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-3 and 33 is/are allowed.
- 6) Claim(s) 4-8, 10-13, 15-26 and 28-32 is/are rejected.
- 7) Claim(s) 14 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-8, 10-13, 15-26, and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arends et al. (US 4, 306,474) in view of Wittek (US 1,796,417).

Arends discloses the invention substantially as claimed except for a roller feed assembly including a drive release mechanism configured to cooperate with the die as the treadle is moved towards a stationary platen carrying the die so as to release the roller feed assemblies in response to cooperation of the drive release mechanism with the die. Wittek discloses a roller feed assembly (e.g., 21, 22) including a drive release mechanism (e.g., 43) configured to cooperate with a reciprocating assembly so as to release the roller feed assemblies in response to cooperation of the drive release mechanism with the reciprocating assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a roller feed assembly as taught by Wittek on the device of Arends as an alternative structure for providing the stepwise advancing of the workpiece. Regarding claims 5, 13 and 23, the modified device of Arends discloses the invention substantially as claimed including a web guide member and guide strips (e.g., at 74 and G). The modified device of Arends fails to teach one of the guide strips being spaced from the web guide member by at

least four thickness of the web. However, it would have been obvious matter of design choice to a person of ordinary skill in the art to provide the spacing between the web guide member and the guide strip of Arends to be at least four thickness of the web because applicant has not disclosed the specific spacing provides an advantage, is used for particular purpose, or solves a stated problem. One of ordinary skill in the art would have expected the spacing of Arends and applicant's invention, to perform equally well with either arrangement since both arrangements would perform the same function. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Regarding claims 6, 11 and 24, an article detector (e.g., 100) and the guide strips (e.g., G) are both carried by the treadle. Regarding claims 10 and 28, control circuitry (e.g., at 102). Regarding claims 16 and 28, a knock lever mechanism having a lever arm and a follower wheel (e.g., 21, 22, and end portion of 43 of Wittek).

Allowable Subject Matter

3. Claims 1-3 and 33 are allowed.
4. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed September 28, 2006 have been fully considered but they are not persuasive.

Applicant contends that Wittek clearly teaches away from the present invention since Wittek teaches a releasable friction clamp for clamping coiled stock that is fed into a punch press wherein the present invention releases a web when cutting articles from the web.

The examiner's proposed modification proposes to incorporate the teachings of Wittek using of a feed mechanism that is releasable in response to cooperation of the drive release mechanism and a reciprocating assembly. Arends teaches a feed mechanism releasable from the workpiece as the treadle is moved towards a stationary platen. Wittek teaches a roller assembly configured to release from the workpiece in response to cooperation of a releasing mechanism carried by the reciprocating mechanism with a stationary mechanism as the reciprocating mechanism moves towards the stationary mechanism. Thus, it is the examiner's position that one having ordinary skill in the art would have been motivated to incorporate the teachings of Wittek on the device of Arends to arrive at the claimed invention.

Applicant contends that the original filed application notes a specific advantage with the spacing for reducing frictional forces.

The examiner agrees that the applicant's original filed application does provide an advantage of providing the spacing. However, there is no support in the specification that the spacing being **at least four thickness of the web** provides an advantage, is used for particular purpose, or solves a stated problem. It appears that the spacing would have depended on the thickness of the web and it is the examiner's position that it would have been obvious matter of design choice to one having ordinary

skill in the art to select the appropriate spacing (e.g., at least four thickness of the web) based on the thickness of the web in order to smoothly guide the web. The examiner has provided evidence of the desirability of providing the spacing in Arends (see col. 4, lines 40-44). Furthermore, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sc
22 December 2006


STEPHEN CHOI
PRIMARY EXAMINER